

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION and

THE PEOPLE OF THE STATE OF NEW YORK,  
by ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING  
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a limited  
liability company;

PREVAGEN, INC., a corporation  
d/b/a/ SUGAR RIVER SUPPLEMENTS;

QUINCY BIOSCIENCE  
MANUFACTURING, LLC, a limited liability  
company;

MARK UNDERWOOD, individually and as  
an officer of QUINCY BIOSCIENCE  
HOLDING COMPANY, INC., QUINCY  
BIOSCIENCE, LLC, and PREVAGEN,  
INC.; and

MICHAEL BEAMAN, individually and as an  
officer of QUINCY BIOSCIENCE HOLDING  
COMPANY, INC., QUINCY BIOSCIENCE, LLC,  
and PREVAGEN, INC.

Defendants.

Case No. 1:17-cv-00124-LLS

**NOTICE OF MOTION TO  
DISMISS PURSUANT TO  
FED. R. CIV. P. 12(b)(6)**

**PLEASE TAKE NOTICE** that, upon the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss, Declaration of Glenn T. Graham, and all pleadings filed in this action, defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc. d/b/a Sugar River Supplements, and Quincy Bioscience Manufacturing, LLC

(collectively, “Defendants”), by and through their counsel, Kelley Drye & Warren LLP, will move this Court before the Honorable Louis L. Stanton, United States District Judge, at the United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007-1312, on a date and time to be determined by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Complaint filed by the Federal Trade Commission and the People of the State of New York, by Eric T. Schneiderman, Attorney General of New York (collectively, “Plaintiffs”) for failure to state a claim, and awarding Defendants such other, further, and different relief as this Court deems to be just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the March 3, 2017 Order of this Court, Plaintiffs’ opposition papers, if any, are due on or before April 25, 2017, and Defendants’ reply papers, if any, are due on or before May 5, 2017.

Dated: April 6, 2017  
New York, New York

KELLEY DRYE & WARREN LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of April, 2017, I have caused service of the foregoing Defendants' Notice of Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6), along with the Memorandum of Law in Support of Defendant's Motion to Dismiss and Declaration of Glenn T. Graham, to be made by electronic filing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Dated: April 6, 2017  
New York, New York

S/Jeffrey S. Jacobson  
Jeffrey S. Jacobson